

House Amendment 1710

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1 1 Amend the Senate amendment, H=1633, to House File
1 2 868, as amended, passed, and reprinted by the House,
1 3 as follows:
1 4 #1. Page 2, by inserting after line 43, the
1 5 following:
1 6 <#____. Page 25, by inserting after line 18, the
1 7 following:
1 8 <Sec. _____. OPERATIONAL EXPENSES. Moneys that are
1 9 appropriated to the department of economic development
1 10 pursuant to section 15G.111, if enacted, for deposit
1 11 in workforce training and economic development funds
1 12 of community colleges may be used by community
1 13 colleges for operational expenses associated with
1 14 vocational technical training.>>
1 15 #2. Page 3, by inserting after line 2 the
1 16 following:
1 17 <#____. Page 57, by inserting after line 16 the
1 18 following:
1 19 <Sec. _____. Section 15E.305, subsection 2, Code
1 20 2005, is amended to read as follows:
1 21 2. The aggregate amount of tax credits authorized
1 22 pursuant to this section shall not exceed a total of
1 23 two million dollars annually. The maximum amount of
1 24 tax credits granted to a taxpayer shall not exceed
1 25 five percent of the aggregate amount of tax credits
1 26 authorized.>
1 27 #strike>____. Page 59, line 14, by inserting after the
1 28 word <issued> the following: <each calendar year.>
1 29 #3. Page 3, line 14, by striking the word
1 30 <state.>> and inserting the following: <state.>
1 31 #4. Page 3, by inserting after line 14 the
1 32 following:
1 33 <Sec. _____. Section 452A.3, Code 2005, is amended
1 34 by adding the following new subsection:
1 35 NEW SUBSECTION. 1C. The rate of the excise tax on
1 36 E=85 gasoline imposed in subsection 1B shall be
1 37 determined based on the number of gallons of E=85
1 38 gasoline that is distributed in this state during the
1 39 previous calendar year. The department shall
1 40 determine the actual tax paid for E=85 gasoline for
1 41 each period beginning January 1 and ending December
1 42 31. The amount of the tax paid on E=85 gasoline
1 43 during the past calendar year shall be compared to the
1 44 amount of tax on E=85 gasoline that would have been
1 45 paid using the tax rate for gasoline imposed in
1 46 subsection 1 or 1A and a difference shall be
1 47 established. If this difference is equal to or
1 48 greater than twenty-five thousand dollars, the tax
1 49 rate for E=85 gasoline for the period beginning July 1
1 50 following the end of the determination period shall be
2 1 the rate in effect as stated in subsection 1 or 1A.
2 2 Sec. _____. STUDY. The state department of
2 3 transportation shall review the current revenue levels
2 4 of the road use tax fund and its sufficiency for the
2 5 projected construction and maintenance needs of city,
2 6 county, and state governments in the future. The
2 7 department shall submit a written report to the
2 8 general assembly regarding its findings on or before
2 9 December 31, 2006. The report may include
2 10 recommendations concerning funding levels needed to
2 11 support the future mobility and accessibility for
2 12 users of Iowa's public road system.
2 13 Sec. _____. EFFECTIVE DATE. The sections of this
2 14 division of this Act amending chapter 452A take effect
2 15 January 1, 2006.>
2 16 #5. Page 5, by inserting after line 4, the
2 17 following:
2 18 <#____. Page 59, by inserting after line 35, the
2 19 following:
2 20 <DIVISION ____
2 21 PORT AUTHORITIES
2 22 Sec. _____. Section 12.30, subsection 1, paragraph
2 23 a, Code 2005, is amended to read as follows:
2 24 a. "Authority" means a department, or public or

2 25 quasi-public instrumentality of the state including,
2 26 but not limited to, the authority created under
2 27 chapter 12E, 16, 16A, 175, 257C, 261A, or 327I, which
2 28 has the power to issue obligations, except that
2 29 "authority" does not include the state board of
2 30 regents or the Iowa finance authority to the extent it
2 31 acts pursuant to chapter 260C. "Authority" also
2 32 includes a port authority created under chapter 28J.

2 33 Sec. _____. NEW SECTION. 28J.1 DEFINITIONS.

2 34 As used in this chapter, unless the context
2 35 otherwise requires:

2 36 1. "Authorized purposes" means an activity that
2 37 enhances, fosters, aids, provides, or promotes
2 38 transportation, economic development, housing,
2 39 recreation, education, governmental operations,
2 40 culture, or research within the jurisdiction of a port
2 41 authority.

2 42 2. "Board" means the board of directors of a port
2 43 authority established pursuant to section 28J.2.

2 44 3. "City" means the same as defined in section
2 45 362.2.

2 46 4. "Construction" means alteration, creation,
2 47 development, enlargement, erection, improvement,
2 48 installation, reconstruction, remodeling, and
2 49 renovation.

2 50 5. "Contracting governmental agency" means any
3 1 governmental agency or taxing district of the state
3 2 that, by action of its legislative authority, enters
3 3 into an agreement with a port authority pursuant to
3 4 section 28J.17.

3 5 6. "Cost" as applied to a port authority facility
3 6 means any of the following:

3 7 a. The cost of construction contracts, land,
3 8 rights-of-way, property rights, easements, franchise
3 9 rights, and interests required for acquisition or
3 10 construction.

3 11 b. The cost of demolishing or removing any
3 12 buildings or structures on land, including the cost of
3 13 acquiring any lands to which those buildings or
3 14 structures may be moved.

3 15 c. The cost of diverting a highway, interchange of
3 16 a highway, and access roads to private property,
3 17 including the cost of land or easements, and
3 18 relocation of a facility of a utility company or
3 19 common carrier.

3 20 d. The cost of machinery, furnishings, equipment,
3 21 financing charges, interest prior to and during
3 22 construction and for no more than twelve months after
3 23 completion of construction, engineering, and expenses
3 24 of research and development with respect to a
3 25 facility.

3 26 e. Legal and administrative expenses, plans,
3 27 specifications, surveys, studies, estimates of cost
3 28 and revenues, engineering services, and other expenses
3 29 necessary or incident to determining the feasibility
3 30 or practicability of acquiring or constructing a
3 31 facility.

3 32 f. The interest upon the revenue bonds and pledge
3 33 orders during the period or estimated period of
3 34 construction and for twelve months thereafter, or for
3 35 twelve months after the acquisition date, reserve
3 36 funds as the port authority deems advisable in
3 37 connection with a facility and the issuance of port
3 38 authority revenue bonds and pledge orders.

3 39 g. The costs of issuance of port authority revenue
3 40 bonds and pledge orders.

3 41 h. The cost of diverting a rail line, rail spur
3 42 track, or rail spur track switch, including the cost
3 43 of land or easements, and relocation of a facility of
3 44 a utility company or common carrier.

3 45 i. The cost of relocating an airport's runways,
3 46 terminals, and related facilities including the cost
3 47 of land or easements, and relocation of a facility of
3 48 a utility company or common carrier.

3 49 7. "Facility" or "port authority facility" means
3 50 real or personal property owned, leased, or otherwise
4 1 controlled or financed by a port authority and related
4 2 to or in furtherance of one or more authorized
4 3 purposes.

4 4 8. "Governmental agency" means a department,
4 5 division, or other unit of state government of this

4 6 state or any other state, city, county, township, or
4 7 other governmental subdivision, or any other public
4 8 corporation or agency created under the laws of this
4 9 state, any other state, the United States, or any
4 10 department or agency thereof, or any agency,
4 11 commission, or authority established pursuant to an
4 12 interstate compact or agreement or combination
4 13 thereof.

4 14 9. "Person" means the same as defined in section
4 15 4.1.

4 16 10. "Pledge order" means a promise to pay out of
4 17 the net revenues of a port authority, which is
4 18 delivered to a contractor or other person in payment
4 19 of all or part of the cost of a facility.

4 20 11. "Political subdivision" means a city, county,
4 21 city=county consolidation, or multicounty
4 22 consolidation, or combination thereof.

4 23 12. "Political subdivisions comprising the port
4 24 authority" means the political subdivisions which
4 25 created or participated in the creation of the port
4 26 authority under section 28J.2, or which joined an
4 27 existing port authority under section 28J.4.

4 28 13. "Port authority" means an entity created
4 29 pursuant to section 28J.2.

4 30 14. "Port authority revenue bonds" means revenue
4 31 bonds and revenue refunding bonds issued pursuant to
4 32 section 28J.21.

4 33 15. "Public roads" means all public highways,
4 34 roads, and streets in this state, whether maintained
4 35 by the state or by a county or city.

4 36 16. "Revenues" means rental fees and other charges
4 37 received by a port authority for the use or services
4 38 of a facility, a gift or grant received with respect
4 39 to a facility, moneys received with respect to the
4 40 lease, sublease, sale, including installment sale or
4 41 conditional sale, or other disposition of a facility,
4 42 moneys received in repayment of and for interest on
4 43 any loans made by the port authority to a person or
4 44 governmental agency, proceeds of port authority
4 45 revenue bonds for payment of principal, premium, or
4 46 interest on the bonds authorized by the port
4 47 authority, proceeds from any insurance, condemnation,
4 48 or guarantee pertaining to the financing of the
4 49 facility, and income and profit from the investment of
4 50 the proceeds of port authority revenue bonds or of any
5 1 revenues.

5 2 Sec. _____. NEW SECTION. 28J.2 CREATION AND POWERS
5 3 OF PORT AUTHORITY.

5 4 1. Two or more political subdivisions may create a
5 5 port authority under this chapter by resolution. If a
5 6 proposal to create a port authority receives a
5 7 favorable majority of the members of the elected
5 8 legislative body of the political subdivision, the
5 9 port authority is created at the time provided in the
5 10 resolution. The jurisdiction of a port authority
5 11 includes the territory described in section 28J.8.

5 12 2. A port authority created pursuant to this
5 13 section may sue and be sued, complain, and defend in
5 14 its name and has the powers and jurisdiction
5 15 enumerated in this chapter.

5 16 3. At the time a port authority is created
5 17 pursuant to this section, the political subdivisions
5 18 comprising the port authority may restrict the powers
5 19 granted the port authority pursuant to this chapter by
5 20 specifically adopting such restrictions in the
5 21 resolution creating the port authority.

5 22 4. The political subdivisions comprising the port
5 23 authority whose powers have been restricted pursuant
5 24 to subsection 3 may at any time adopt a resolution to
5 25 grant additional powers to the port authority, so long
5 26 as the additional powers do not exceed the powers
5 27 permitted under this chapter.

5 28 Sec. _____. NEW SECTION. 28J.3 APPROPRIATION AND
5 29 EXPENDITURE OF PUBLIC FUNDS == DISSOLUTION.

5 30 1. The political subdivisions comprising a port
5 31 authority may appropriate and expend public funds to
5 32 finance or subsidize the operation and authorized
5 33 purposes of the port authority. A port authority
5 34 shall control tax revenues allocated to the facilities
5 35 the port authority administers and all revenues
5 36 derived from the operation of the port authority, the

5 37 sale of its property, interest on investments, or from
5 38 any other source related to the port authority.

5 39 2. All revenues received by the port authority
5 40 shall be held in a separate fund in a manner agreed to
5 41 by the political subdivisions comprising the port
5 42 authority. Revenues may be paid out only at the
5 43 direction of the board of directors of the port
5 44 authority.

5 45 3. A port authority shall comply with section
5 46 331.341, subsections 1, 2, 4, and 5, and section
5 47 331.342, when contracting for public improvements.

5 48 4. Subject to making due provisions for payment
5 49 and performance of any outstanding obligations, the
5 50 political subdivisions comprising the port authority
6 1 may dissolve the port authority, and transfer the
6 2 property of the port authority to the political
6 3 subdivisions comprising the port authority in a manner
6 4 agreed upon between the political subdivisions
6 5 comprising the port authority prior to the dissolution
6 6 of the port authority.

6 7 Sec. _____. NEW SECTION. 28J.4 JOINING AN EXISTING
6 8 PORT AUTHORITY.

6 9 1. A political subdivision which is contiguous to
6 10 either a political subdivision which participated in
6 11 the creation of the port authority or a political
6 12 subdivision which proposes to join the port authority
6 13 at the same time which is contiguous to a political
6 14 subdivision which participated in the creation of the
6 15 port authority may join the port authority by
6 16 resolution.

6 17 2. If more than one such political subdivision
6 18 proposes to join the port authority at the same time,
6 19 the resolution of each such political subdivision
6 20 shall designate the political subdivisions which are
6 21 to be so joined.

6 22 3. Any territory or city not included in a port
6 23 authority which is annexed to a city included within
6 24 the jurisdiction of a port authority shall, on such
6 25 annexation and without further proceedings, be annexed
6 26 to and be included in the jurisdiction of the port
6 27 authority.

6 28 4. Before a political subdivision is joined to a
6 29 port authority, other than by annexation to a city,
6 30 the political subdivisions comprising the port
6 31 authority shall agree upon the terms and conditions
6 32 pursuant to which such political subdivision is to be
6 33 joined.

6 34 5. For the purpose of this chapter, such political
6 35 subdivision shall be considered to have participated
6 36 in the creation of the port authority, except that the
6 37 initial term of any director of the port authority
6 38 appointed by a joining political subdivision shall be
6 39 four years.

6 40 6. After each resolution proposing a political
6 41 subdivision to join a port authority has become
6 42 effective and the terms and conditions of joining the
6 43 port authority have been agreed to, the board of
6 44 directors of the port authority shall by resolution
6 45 either accept or reject the proposal. Such proposal
6 46 to join a port authority shall be effective upon
6 47 adoption of the resolution by the board of directors
6 48 of the port authority and thereupon the jurisdiction
6 49 of the port authority includes the joining political
6 50 subdivision.

7 1 Sec. _____. NEW SECTION. 28J.5 MEMBERSHIP OF BOARD
7 2 OF DIRECTORS.

7 3 1. A port authority created pursuant to section
7 4 28J.2 shall be governed by a board of directors.
7 5 Members of a board of directors of a port authority
7 6 shall be divided among the political subdivisions
7 7 comprising the port authority in such proportions as
7 8 the political subdivisions may agree and shall be
7 9 appointed by the respective political subdivision's
7 10 elected legislative body.

7 11 2. The number of directors comprising the board
7 12 shall be determined by agreement between the political
7 13 subdivisions comprising the port authority, and which
7 14 number may be changed by resolution of the political
7 15 subdivisions comprising the port authority.

7 16 3. A majority of the directors shall have been
7 17 qualified electors of, or owned a business or been

7 18 employed in, one or more political subdivisions within
7 19 the area of the jurisdiction of the port authority for
7 20 a period of at least three years preceding
7 21 appointment.

7 22 4. The directors of a port authority first
7 23 appointed shall serve staggered terms. Thereafter
7 24 each successor director shall serve for a term of four
7 25 years, except that any person appointed to fill a
7 26 vacancy shall be appointed to only the unexpired term.
7 27 A director is eligible for reappointment.

7 28 5. The board may provide procedures for the
7 29 removal of a director who fails to attend three
7 30 consecutive regular meetings of the board. If a
7 31 director is so removed, a successor shall be appointed
7 32 for the remaining term of the removed director in the
7 33 same manner provided for the original appointment.
7 34 The appointing body may at any time remove a director
7 35 appointed by it for misfeasance, nonfeasance, or
7 36 malfeasance in office.

7 37 6. The board may adopt bylaws and shall elect one
7 38 director as chairperson and one director as vice
7 39 chairperson, designate terms of office, and appoint a
7 40 secretary who need not be a director.

7 41 7. A majority of the board of directors shall
7 42 constitute a quorum for the purpose of holding a
7 43 meeting of the board. The affirmative vote of a
7 44 majority of a quorum shall be necessary for any action
7 45 taken by the port authority unless the board
7 46 determines that a greater number of affirmative votes
7 47 is necessary for particular actions to be taken by the
7 48 port authority. A vacancy in the membership of the
7 49 board shall not impair the rights of a quorum to
7 50 exercise all the rights and perform all the duties of

8 1 the port authority.
8 2 8. Each director shall be entitled to receive from
8 3 the port authority such sum of money as the board may
8 4 determine as compensation for services as a director
8 5 and reimbursement for reasonable expenses in the
8 6 performance of official duties.

8 7 Sec. _____. NEW SECTION. 28J.6 CIVIL IMMUNITY OF
8 8 DIRECTORS.

8 9 A director of a port authority shall not be
8 10 personally liable for any monetary damages that arise
8 11 from actions taken in the performance of the
8 12 director's official duties, except for acts or
8 13 omissions that are not in good faith or that involve
8 14 intentional misconduct, a knowing violation of law, or
8 15 any transaction from which the director derived an
8 16 improper personal benefit.

8 17 Sec. _____. NEW SECTION. 28J.7 EMPLOYEES, ADVISORY
8 18 BOARD, PEACE OFFICERS.

8 19 1. A port authority shall employ and fix the
8 20 qualifications, duties, and compensation of any
8 21 employees and enter into contracts for any services
8 22 that may be required to conduct the business of the
8 23 port authority, and may appoint an advisory board,
8 24 which shall serve without compensation.

8 25 2. An employee of a port authority is a public
8 26 employee for the purposes of collective bargaining
8 27 under chapter 20.

8 28 3. a. A port authority may provide for the
8 29 administration and enforcement of the laws of the
8 30 state by employing peace officers who shall have all
8 31 the powers conferred by law on peace officers of this
8 32 state with regard to the apprehension of violators
8 33 upon all property under its control within and without
8 34 the port authority. The peace officers may seek the
8 35 assistance of other appropriate law enforcement
8 36 officers to enforce its rules and maintain order.

8 37 b. Peace officers employed by a port authority
8 38 shall meet all requirements as police officers
8 39 appointed under the civil service law of chapter 400
8 40 and shall participate in the retirement system
8 41 established by chapter 411.

8 42 c. Peace officers employed by a port authority
8 43 shall serve as a peace officer force with respect to
8 44 the property, grounds, buildings, equipment, and
8 45 facilities under the control of the port authority, to
8 46 prevent hijacking of aircraft or watercraft, protect
8 47 the property of the authority and the property of
8 48 others located thereon, suppress nuisances and

8 49 disturbances and breaches of the peace, and enforce
8 50 laws and the rules of the port authority for the
9 1 preservation of good order. Peace officers are vested
9 2 with the same powers of arrest as peace officers under
9 3 section 804.7.

9 4 4. If an employee of a political subdivision
9 5 comprising the port authority is transferred to a
9 6 comparable position with the port authority, the
9 7 employee is entitled to suffer no loss in pay,
9 8 pension, fringe benefits, or other benefits and shall
9 9 be entitled to a comparable rank and grade as the
9 10 employee's prior position. Sick leave, longevity, and
9 11 vacation time accrued to such employees shall be
9 12 credited to them as employees of the port authority.
9 13 All rights and accruals of such employees as members
9 14 of the Iowa public employees' retirement system
9 15 pursuant to chapter 97B and the retirement system for
9 16 police officers pursuant to chapter 411 shall remain
9 17 in force and shall be automatically transferred to the
9 18 port authority.

9 19 Sec. ____ NEW SECTION. 28J.8 AREA OF
9 20 JURISDICTION.

9 21 1. The area of jurisdiction of a port authority
9 22 shall include all of the territory of the political
9 23 subdivisions comprising the port authority and, if the
9 24 port authority owns or leases a railroad line or
9 25 airport, the territory on which the railroad's line,
9 26 terminals, and related facilities or the airport's
9 27 runways, terminals, and related facilities are
9 28 located, regardless of whether the territory is
9 29 located in the political subdivisions comprising the
9 30 port authority.

9 31 2. A political subdivision that has created a port
9 32 authority or joined an existing port authority shall
9 33 not be included in any other port authority.

9 34 Sec. ____ NEW SECTION. 28J.9 POWERS OF PORT
9 35 AUTHORITY.

9 36 A port authority may exercise all of the following
9 37 powers:

9 38 1. Adopt bylaws for the regulation of the port
9 39 authority's affairs and the conduct of the port
9 40 authority's business.

9 41 2. Adopt an official seal.

9 42 3. Maintain a principal office and branch offices
9 43 within the port authority's jurisdiction.

9 44 4. Acquire, construct, furnish, equip, maintain,
9 45 repair, sell, exchange, lease, lease with an option to
9 46 purchase, convey interests in real or personal
9 47 property, and operate any property of the port
9 48 authority in connection with transportation,
9 49 recreational, governmental operations, or cultural
9 50 activities in furtherance of an authorized purpose.

10 1 5. Straighten, deepen, and improve any channel,
10 2 river, stream, or other watercourse or way which may
10 3 be necessary or proper in the development of the
10 4 facilities of the port authority.

10 5 6. Make available the use or services of any
10 6 facility of the port authority to any person or
10 7 governmental agency.

10 8 7. Issue bonds or pledge orders pursuant to the
10 9 requirements and limitations in section 28J.21.

10 10 8. Issue port authority revenue bonds beyond the
10 11 limit of bonded indebtedness provided by law, payable
10 12 solely from revenues as provided in section 28J.21,
10 13 for the purpose of providing funds to pay the costs of
10 14 any facility or facilities of the port authority or
10 15 parts thereof.

10 16 9. Apply to the proper authorities of the United
10 17 States for the right to establish, operate, and
10 18 maintain foreign trade zones and establish, operate,
10 19 and maintain foreign trade zones and to acquire,
10 20 exchange, sell, lease to or from, lease with an option
10 21 to purchase, or operate facilities, land, or property
10 22 in accordance with the federal Foreign Trade Zones
10 23 Act, 19 U.S.C. } 81a-81u.

10 24 10. Enjoy and possess the same legislative and
10 25 executive rights, privileges, and powers granted
10 26 cities under chapter 364 and counties under chapter
10 27 331, including the exercise of police power but
10 28 excluding the power to levy taxes.

10 29 11. Maintain such funds as it considers necessary

10 30 and adhere to the public funds investment standards of
10 31 chapter 12B, as applicable.

10 32 12. Direct port authority agents or employees,
10 33 after at least five days' written notice, to enter
10 34 upon lands within the port authority's jurisdiction to
10 35 make surveys and examinations preliminary to location
10 36 and construction of works for the port authority,
10 37 without liability of the port authority or its agents
10 38 or employees except for actual damages.

10 39 13. Promote, advertise, and publicize the port
10 40 authority and its facilities, and provide information
10 41 to shippers and other commercial interests.

10 42 14. Adopt bylaws, not in conflict with state or
10 43 federal law, necessary or incidental to the
10 44 performance of the duties of and the execution of the
10 45 powers of the port authority under this chapter.

10 46 15. Do any of the following in regard to interests
10 47 in real or personal property, including machinery,
10 48 equipment, plants, factories, offices, and other
10 49 structures and facilities related to or in furtherance
10 50 of any authorized purpose as the board in its sole
11 1 discretion may determine:

11 2 a. Loan money to any person or governmental agency
11 3 for the acquisition, construction, furnishing, or
11 4 equipping of the property.

11 5 b. Acquire, construct, maintain, repair, furnish,
11 6 or equip the property.

11 7 c. Sell to, exchange with, lease, convey other
11 8 interests in, or lease with an option to purchase the
11 9 same or any lesser interest in the property to the
11 10 same or any other person or governmental agency.

11 11 d. Guarantee the obligations of any person or
11 12 governmental agency.

11 13 e. Accept and hold as consideration for the
11 14 conveyance of property or any interest therein such
11 15 property or interests therein as the board may
11 16 determine, notwithstanding any restrictions that apply
11 17 to the investment of funds by a port authority.

11 18 16. Sell, lease, or convey other interests in real
11 19 and personal property, and grant easements or rights=
11 20 of-way over property of the port authority. The board
11 21 shall specify the consideration and terms for the
11 22 sale, lease, or conveyance of other interests in real
11 23 and personal property. A determination made by the
11 24 board under this subsection shall be conclusive. The
11 25 sale, lease, or conveyance may be made without
11 26 advertising and the receipt of bids.

11 27 17. Enter into an agreement with a political
11 28 subdivision comprising the port authority for the
11 29 political subdivision to exercise its right of eminent
11 30 domain pursuant to chapters 6A and 6B on behalf of the
11 31 port authority. However, a condemnation exercised on
11 32 behalf of a port authority pursuant to this subsection
11 33 shall not take or disturb property or a facility
11 34 belonging to a governmental agency, utility company,
11 35 or common carrier, which property or facility is
11 36 necessary and convenient in the operation of the
11 37 governmental agency, utility company, or common
11 38 carrier, unless provision is made for the restoration,
11 39 relocation, or duplication of such property or
11 40 facility, or upon the election of the governmental
11 41 agency, utility company, or common carrier, for the
11 42 payment of compensation, if any, at the sole cost of
11 43 the port authority, provided that both of the
11 44 following apply:

11 45 a. If a restoration or duplication proposed to be
11 46 made under this subsection involves a relocation of
11 47 the property or facility, the new facility and
11 48 location shall be of at least comparable utilitarian
11 49 value and effectiveness and shall not impair the
11 50 ability of the utility company or common carrier to
12 1 compete in its original area of operation.

12 2 b. If a restoration or duplication made under this
12 3 subsection involves a relocation of the property or
12 4 facility, the port authority shall acquire no interest
12 5 or right in or to the appropriated property or
12 6 facility, until the relocated property or facility is
12 7 available for use and until marketable title thereto
12 8 has been transferred to the utility company or common
12 9 carrier.

12 10 18. a. Make and enter into all contracts and

12 11 agreements and execute all instruments necessary or
12 12 incidental to the performance of the duties of and the
12 13 execution of powers of the port authority under this
12 14 chapter.

12 15 b. Except as provided in paragraph "c", when the
12 16 cost of a contract for the construction of a building,
12 17 structure, or other improvement undertaken by a port
12 18 authority involves an expenditure exceeding twenty=
12 19 five thousand dollars, and the port authority is the
12 20 contracting entity, the port authority shall make a
12 21 written contract after notice calling for bids for the
12 22 award of the contract has been given by publication
12 23 twice, with at least seven days between publications,
12 24 in a newspaper of general circulation in the area of
12 25 the port authority. Each such contract shall be let
12 26 to the lowest responsive and responsible bidder.
12 27 Every contract shall be accompanied by or shall refer
12 28 to plans and specifications for the work to be done,
12 29 prepared for and approved by the port authority, and
12 30 signed by an authorized officer of the port authority
12 31 and by the contractor.

12 32 c. The board of directors may provide criteria for
12 33 the negotiation and award without competitive bidding
12 34 of any contract as to which the port authority is the
12 35 contracting entity for the construction of any
12 36 building or structure or other improvement under any
12 37 of the following circumstances:

12 38 (1) A real and present emergency exists that
12 39 threatens damage or injury to persons or property of
12 40 the port authority or other persons, provided that a
12 41 statement specifying the nature of the emergency that
12 42 is the basis for the negotiation and award of a
12 43 contract without competitive bidding shall be signed
12 44 by the officer of the port authority that executes
12 45 that contract at the time of the contract's execution
12 46 and shall be attached to the contract.

12 47 (2) A commonly recognized industry or other
12 48 standard or specification does not exist and cannot
12 49 objectively be articulated for the improvement.

12 50 (3) The contract is for any energy conservation
13 1 measure as defined in section 7D.34.

13 2 (4) With respect to material to be incorporated
13 3 into the improvement, only a single source or supplier
13 4 exists for the material.

13 5 (5) A single bid is received by the port authority
13 6 after complying with the provisions of paragraph "b".

13 7 d. (1) If a contract is to be negotiated and
13 8 awarded without competitive bidding for the reason set
13 9 forth in paragraph "c", subparagraph (2), the port
13 10 authority shall publish a notice calling for technical
13 11 proposals at least twice, with at least seven days
13 12 between publications, in a newspaper of general
13 13 circulation in the area of the port authority. After
13 14 receipt of the technical proposals, the port authority
13 15 may negotiate with and award a contract for the
13 16 improvement to the person making the proposal
13 17 considered to be the most advantageous to the port
13 18 authority.

13 19 (2) If a contract is to be negotiated and awarded
13 20 without competitive bidding for the reason set forth
13 21 in paragraph "c", subparagraph (4), construction
13 22 activities related to the incorporation of the
13 23 material into the improvement also may be provided
13 24 without competitive bidding by the source or supplier
13 25 of that material.

13 26 e. A purchase, exchange, sale, lease, lease with
13 27 an option to purchase, conveyance of other interests
13 28 in, or other contract with a person or governmental
13 29 agency that pertains to the acquisition, construction,
13 30 maintenance, repair, furnishing, equipping, or
13 31 operation of any real or personal property, related to
13 32 or in furtherance of economic development and the
13 33 provision of adequate housing, shall be made in such
13 34 manner and subject to such terms and conditions as may
13 35 be determined in the board's discretion. This
13 36 paragraph applies to all contracts that are subject to
13 37 this section, notwithstanding any other provision of
13 38 law that might otherwise apply, including a
13 39 requirement of notice, competitive bidding or
13 40 selection, or for the provision of security. However,
13 41 this paragraph shall not apply to a contract secured

13 42 exclusively by or to be paid exclusively from the
13 43 general revenues of the port authority. For the
13 44 purposes of this paragraph, any revenues derived by
13 45 the port authority under a lease or other agreement
13 46 that, by its terms, contemplates the use of amounts
13 47 payable under the agreement either to pay the costs of
13 48 the improvement that is the subject of the contract or
13 49 to secure obligations of the port authority issued to
13 50 finance costs of such improvement, are excluded from
14 1 general revenues.

14 2 19. Employ managers, superintendents, and other
14 3 employees and retain or contract with consulting
14 4 engineers, financial consultants, accounting experts,
14 5 architects, attorneys, and any other consultants and
14 6 independent contractors as are necessary in the port
14 7 authority's judgment to carry out this chapter, and
14 8 fix the compensation thereof. All expenses thereof
14 9 shall be payable from any available funds of the port
14 10 authority or from funds appropriated for that purpose
14 11 by the political subdivisions comprising the port
14 12 authority.

14 13 20. Receive and accept from a governmental agency
14 14 grants and loans for the construction of a port
14 15 authority facility, for research and development with
14 16 respect to a port authority facility, or any other
14 17 authorized purpose, and receive and accept aid or
14 18 contributions from any source of moneys, property,
14 19 labor, or other things of value, to be held, used, and
14 20 applied only for the purposes for which the grants,
14 21 loans, aid, or contributions are made.

14 22 21. Engage in research and development with
14 23 respect to a port authority facility.

14 24 22. Purchase fire and extended coverage and
14 25 liability insurance for a port authority facility and
14 26 for the principal office and branch offices of the
14 27 port authority, insurance protecting the port
14 28 authority and its officers and employees against
14 29 liability for damage to property or injury to or death
14 30 of persons arising from its operations, and any other
14 31 insurance the port authority may agree to provide
14 32 under a resolution authorizing port authority revenue
14 33 bonds, pledge orders, or in any trust agreement
14 34 securing the same.

14 35 23. Charge, alter, and collect rental fees and
14 36 other charges for the use or services of a port
14 37 authority facility as provided in section 28J.16.

14 38 24. Perform all acts necessary or proper to carry
14 39 out the powers expressly granted in this chapter.

14 40 Sec. _____. NEW SECTION. 28J.10 PARTICIPATION OF
14 41 PRIVATE ENTERPRISE.

14 42 The port authority shall foster and encourage the
14 43 participation of private enterprise in the development
14 44 of the port authority facilities to the fullest extent
14 45 practicable in the interest of limiting the necessity
14 46 of construction and operation of the facilities by the
14 47 port authority.

14 48 Sec. _____. NEW SECTION. 28J.11 PROVISIONS DO NOT
14 49 AFFECT OTHER LAWS OR POWERS.

14 50 This chapter shall not do any of the following:

15 1 1. Impair a provision of law directing the payment
15 2 of revenues derived from public property into sinking
15 3 funds or dedicating those revenues to specific
15 4 purposes.

15 5 2. Impair the powers of a political subdivision to
15 6 develop or improve a port and terminal facility except
15 7 as restricted by section 28J.15.

15 8 3. Enlarge, alter, diminish, or affect in any way,
15 9 a lease or conveyance made, or action taken prior to
15 10 the creation of a port authority under section 28J.2
15 11 by a city or a county.

15 12 4. Impair or interfere with the exercise of a
15 13 permit for the removal of sand or gravel, or other
15 14 similar permits issued by a governmental agency.

15 15 5. Impair or contravene applicable federal
15 16 regulations.

15 17 Sec. _____. NEW SECTION. 28J.12 CONVEYANCE, LEASE,
15 18 OR EXCHANGE OF PUBLIC PROPERTY.

15 19 A port authority may convey or lease, lease with an
15 20 option to purchase, or exchange with any governmental
15 21 agency or other port authority without competitive
15 22 bidding and on mutually agreeable terms, any personal

15 23 or real property, or any interest therein.
15 24 Sec. _____. NEW SECTION. 28J.13 ANNUAL BUDGET ==
15 25 USE OF RENTS AND CHARGES.
15 26 The board shall annually prepare a budget for the
15 27 port authority. Revenues received by the port
15 28 authority shall be used for the general expenses of
15 29 the port authority and to pay interest, amortization,
15 30 and retirement charges on money borrowed. Except as
15 31 provided in section 28J.26, if there remains, at the
15 32 end of any fiscal year, a surplus of such funds after
15 33 providing for the above uses, the board shall pay such
15 34 surplus into the general funds of the political
15 35 subdivisions comprising the port authority as agreed
15 36 to by the subdivisions.
15 37 Sec. _____. NEW SECTION. 28J.14 SECRETARY TO
15 38 FURNISH BOND == DEPOSIT AND DISBURSEMENT OF FUNDS.
15 39 Before receiving any revenues, the secretary of a
15 40 port authority shall furnish a bond in such amount as
15 41 shall be determined by the port authority with
15 42 sureties satisfactory to the port authority, and all
15 43 funds coming into the hands of the secretary shall be
15 44 deposited by the secretary to the account of the port
15 45 authority in one or more such depositories as shall be
15 46 qualified to receive deposits of county funds, which
15 47 deposits shall be secured in the same manner as county
15 48 funds are required to be secured. A disbursement
15 49 shall not be made from such funds except in accordance
15 50 with policies and procedures adopted by the port
16 1 authority.
16 2 Sec. _____. NEW SECTION. 28J.15 LIMITATION ON
16 3 CERTAIN POWERS OF POLITICAL SUBDIVISIONS.
16 4 A political subdivision creating or participating
16 5 in the creation of a port authority in accordance with
16 6 section 28J.2 shall not, during the time the port
16 7 authority is in existence, exercise the rights and
16 8 powers provided in chapters 28A, 28K, and 384 relating
16 9 to the political subdivision's authority over a port,
16 10 wharf, dock, harbor or other facility substantially
16 11 similar to that political subdivision's authority
16 12 under a port authority granted under this chapter.
16 13 Sec. _____. NEW SECTION. 28J.16 RENTALS OR CHARGES
16 14 FOR USE OR SERVICES OF FACILITIES == AGREEMENTS WITH
16 15 GOVERNMENTAL AGENCIES.
16 16 1. a. A port authority may charge, alter, and
16 17 collect rental fees or other charges for the use or
16 18 services of any port authority facility and contract
16 19 for the use or services of a facility, and fix the
16 20 terms, conditions, rental fees, or other charges for
16 21 the use or services.
16 22 b. If the services are furnished in the
16 23 jurisdiction of the port authority by a utility
16 24 company or a common carrier, the port authority's
16 25 charges for the services shall not be less than the
16 26 charges established for the same services furnished by
16 27 a utility company or common carrier in the port
16 28 authority jurisdiction.
16 29 c. The rental fees or other charges shall not be
16 30 subject to supervision or regulation by any other
16 31 authority, commission, board, bureau, or governmental
16 32 agency of the state and the contract may provide for
16 33 acquisition of all or any part of the port authority
16 34 facility for such consideration payable over the
16 35 period of the contract or otherwise as the port
16 36 authority determines to be appropriate, but subject to
16 37 the provisions of any resolution authorizing the
16 38 issuance of port authority revenue bonds or any trust
16 39 agreement securing the bonds.
16 40 d. A governmental agency that has power to
16 41 construct, operate, and maintain a port authority
16 42 facility may enter into a contract or lease with a
16 43 port authority for the use or services of a port
16 44 authority facility as may be agreed to by the port
16 45 authority and the governmental agency.
16 46 2. a. A governmental agency may cooperate with
16 47 the port authority in the acquisition or construction
16 48 of a port authority facility and shall enter into such
16 49 agreements with the port authority as may be
16 50 appropriate, which shall provide for contributions by
17 1 the parties in a proportion as may be agreed upon and
17 2 other terms as may be mutually satisfactory to the
17 3 parties including the authorization of the

17 4 construction of the facility by one of the parties
17 5 acting as agent for all of the parties and the
17 6 ownership and control of the facility by the port
17 7 authority to the extent necessary or appropriate.
17 8 b. A governmental agency may provide funds for the
17 9 payment of any contribution required under such
17 10 agreements by the levy of taxes or assessments if
17 11 otherwise authorized by the laws governing the
17 12 governmental agency in the construction of the type of
17 13 port authority facility provided for in the
17 14 agreements, and may pay the proceeds from the
17 15 collection of the taxes or assessments; or the
17 16 governmental agency may issue bonds or notes, if
17 17 authorized by law, in anticipation of the collection
17 18 of the taxes or assessments, and may pay the proceeds
17 19 of the bonds or notes to the port authority pursuant
17 20 to such agreements.

17 21 c. A governmental agency may provide the funds for
17 22 the payment of a contribution by the appropriation of
17 23 moneys or, if otherwise authorized by law, by the
17 24 issuance of bonds or notes and may pay the
17 25 appropriated moneys or the proceeds of the bonds or
17 26 notes to the port authority pursuant to such
17 27 agreements.

17 28 3. When the contribution of any governmental
17 29 agency is to be made over a period of time from the
17 30 proceeds of the collection of special assessments, the
17 31 interest accrued and to accrue before the first
17 32 installment of the assessments is collected, which is
17 33 payable by the governmental agency on the contribution
17 34 under the terms and provisions of the agreements,
17 35 shall be treated as part of the cost of the
17 36 improvement for which the assessments are levied, and
17 37 that portion of the assessments that is collected in
17 38 installments shall bear interest at the same rate as
17 39 the governmental agency is obligated to pay on the
17 40 contribution under the terms and provisions of the
17 41 agreements and for the same period of time as the
17 42 contribution is to be made under the agreements. If
17 43 the assessment or any installment thereof is not paid
17 44 when due, it shall bear interest until the payment
17 45 thereof at the same rate as the contribution and the
17 46 county auditor shall annually place on the tax list
17 47 and duplicate the interest applicable to the
17 48 assessment and the penalty thereon as otherwise
17 49 authorized by law.

17 50 4. A governmental agency, pursuant to a favorable
18 1 vote in an election regarding issuing bonds to provide
18 2 funds to acquire, construct, or equip, or provide real
18 3 estate and interests in real estate for a port
18 4 authority facility, whether or not the governmental
18 5 agency at the time of the election had the authority
18 6 to pay the proceeds from the bonds or notes issued in
18 7 anticipation of the bonds to the port authority as
18 8 provided in this section, may issue such bonds or
18 9 notes in anticipation of the issuance of the bonds and
18 10 pay the proceeds of the bonds or notes to the port
18 11 authority in accordance with an agreement with the
18 12 port authority; provided, that the legislative
18 13 authority of the governmental agency finds and
18 14 determines that the port authority facility to be
18 15 acquired or constructed in cooperation with the
18 16 governmental agency will serve the same public purpose
18 17 and meet substantially the same public need as the
18 18 facility otherwise proposed to be acquired or
18 19 constructed by the governmental agency with the
18 20 proceeds of the bonds and notes.

18 21 Sec. ____ NEW SECTION. 28J.17 CONTRACTS,
18 22 ARRANGEMENTS, AND AGREEMENTS.

18 23 1. a. A port authority may enter into a contract
18 24 or other arrangement with a person, railroad, utility
18 25 company, corporation, governmental agency including
18 26 sewerage, drainage, conservation, conservancy, or
18 27 other improvement districts in this or other states,
18 28 or the governments or agencies of foreign countries as
18 29 may be necessary or convenient for the exercise of the
18 30 powers granted by this chapter. The port authority
18 31 may purchase, lease, or acquire land or other property
18 32 in any county of this state and in adjoining states
18 33 for the accomplishment of authorized purposes of the
18 34 port authority, or for the improvement of the harbor

18 35 and port facilities over which the port authority may
18 36 have jurisdiction including development of port
18 37 facilities in adjoining states. The authority granted
18 38 in this section to enter into contracts or other
18 39 arrangements with the federal government includes the
18 40 power to enter into any contracts, arrangements, or
18 41 agreements that may be necessary to hold and save
18 42 harmless the United States from damages due to the
18 43 construction and maintenance by the United States of
18 44 work the United States undertakes.

18 45 b. A political subdivision that has participated
18 46 in the creation of a port authority, or is within, or
18 47 adjacent to a political subdivision that is within the
18 48 jurisdiction of a port authority, may enter into an
18 49 agreement with the port authority to accomplish any of
18 50 the authorized purposes of the port authority. The
19 1 agreement may set forth the extent to which the port
19 2 authority shall act as the agent of the political
19 3 subdivision.

19 4 2. A port authority may enter into an agreement
19 5 with a contracting governmental agency, whereby the
19 6 port authority or the contracting governmental agency
19 7 undertakes, and is authorized by the port authority or
19 8 a contracting governmental agency, to exercise any
19 9 power, perform any function, or render any service, on
19 10 behalf of the port authority or a contracting
19 11 governmental agency, which the port authority or the
19 12 contracting governmental agency is authorized to
19 13 exercise, perform, or render.

19 14 Sec. ____ NEW SECTION. 28J.18 REVENUE BONDS ARE
19 15 LAWFUL INVESTMENTS.

19 16 Port authority revenue bonds issued pursuant to
19 17 this chapter are lawful investments of banks, credit
19 18 unions, trust companies, savings and loan
19 19 associations, deposit guaranty associations, insurance
19 20 companies, trustees, fiduciaries, trustees or other
19 21 officers having charge of the bond retirement funds or
19 22 sinking funds of port authorities and governmental
19 23 agencies, and taxing districts of this state, the
19 24 pension and annuity retirement system, the Iowa public
19 25 employees' retirement system, the police and fire
19 26 retirement systems under chapters 410 and 411, a
19 27 revolving fund of a governmental agency of this state,
19 28 and are acceptable as security for the deposit of
19 29 public funds under chapter 12C.

19 30 Sec. ____ NEW SECTION. 28J.19 PROPERTY TAX
19 31 EXEMPTION.

19 32 A port authority shall be exempt from and shall not
19 33 be required to pay taxes on real property belonging to
19 34 a port authority that is used exclusively for an
19 35 authorized purpose as provided in section 427.1,
19 36 subsection 34.

19 37 Sec. ____ NEW SECTION. 28J.20 LOANS FOR
19 38 ACQUISITION OR CONSTRUCTION OF FACILITY == SALE OF
19 39 FACILITY == POWER TO ENCUMBER PROPERTY.

19 40 1. With respect to the financing of a facility for
19 41 an authorized purpose, under an agreement whereby the
19 42 person to whom the facility is to be leased,
19 43 subleased, or sold, or to whom a loan is to be made
19 44 for the facility, is to make payments sufficient to
19 45 pay all of the principal of, premium, and interest on
19 46 the port authority revenue bonds issued for the
19 47 facility, the port authority, in addition to other
19 48 powers under this chapter, may do any of the
19 49 following:

19 50 a. Make loans for the acquisition or construction
20 1 of the facility to such person upon such terms as the
20 2 port authority may determine or authorize including
20 3 secured or unsecured loans, and enter into loan
20 4 agreements and other agreements, accept notes and
20 5 other forms of obligation to evidence such
20 6 indebtedness and mortgages, liens, pledges,
20 7 assignments, or other security interests to secure
20 8 such indebtedness, which may be prior or subordinate
20 9 to or on a parity with other indebtedness,
20 10 obligations, mortgages, pledges, assignments, other
20 11 security interests, or liens or encumbrances, and take
20 12 actions considered appropriate to protect such
20 13 security and safeguard against losses, including,
20 14 without limitation, foreclosure and the bidding upon
20 15 and purchase of property upon foreclosure or other

20 16 sale.
20 17 b. Sell the facility under terms as the port
20 18 authority may determine, including sale by conditional
20 19 sale or installment sale, under which title may pass
20 20 prior to or after completion of the facility or
20 21 payment or provisions for payment of all principal of,
20 22 premium, and interest on the revenue bonds, or at any
20 23 other time provided in the agreement pertaining to the
20 24 sale, and including sale under an option to purchase
20 25 at a price which may be a nominal amount or less than
20 26 true value at the time of purchase.
20 27 c. Grant a mortgage, lien, or other encumbrance
20 28 on, or pledge or assignment of, or other security
20 29 interest with respect to, all or any part of the
20 30 facility, revenues, reserve funds, or other funds
20 31 established in connection with the bonds or with
20 32 respect to a lease, sublease, sale, conditional sale
20 33 or installment sale agreement, loan agreement, or
20 34 other agreement pertaining to the lease, sublease,
20 35 sale, or other disposition of a facility or pertaining
20 36 to a loan made for a facility, or a guaranty or
20 37 insurance agreement made with respect thereto, or an
20 38 interest of the port authority therein, or any other
20 39 interest granted, assigned, or released to secure
20 40 payments of the principal of, premium, or interest on
20 41 the bonds or to secure any other payments to be made
20 42 by the port authority, which mortgage, lien,
20 43 encumbrance, pledge, assignment, or other security
20 44 interest may be prior or subordinate to or on a parity
20 45 with any other mortgage, assignment, or other security
20 46 interest, or lien or encumbrance.
20 47 d. Contract for the acquisition or construction of
20 48 the facility or any part thereof and for the leasing,
20 49 subleasing, sale, or other disposition of the facility
20 50 in a manner determined by the port authority in its
21 1 sole discretion, without necessity for competitive
21 2 bidding or performance bonds.
21 3 e. Make appropriate provision for adequate
21 4 maintenance of the facility.
21 5 2. With respect to a facility referred to in this
21 6 section, the authority granted by this section is
21 7 cumulative and supplementary to all other authority
21 8 granted in this chapter. The authority granted by
21 9 this section does not alter or impair a similar
21 10 authority granted elsewhere in this chapter for or
21 11 with respect to other facilities.
21 12 Sec. . NEW SECTION. 28J.21 ISSUANCE OF
21 13 REVENUE AND REFUNDING BONDS.
21 14 1. A port authority may issue revenue bonds and
21 15 pledge orders payable solely from the net revenues of
21 16 the port authority including the revenues generated
21 17 from a facility pursuant to section 28J.20. The
21 18 revenue bonds may be issued in such principal amounts
21 19 as, in the opinion of the port authority, are
21 20 necessary for the purpose of paying the cost of one or
21 21 more port authority facilities or parts thereof.
21 22 2. a. The resolution to issue the bonds must be
21 23 adopted at a regular or special meeting of the board
21 24 called for that purpose by a majority of the total
21 25 number of members of the board. The board shall fix a
21 26 date, time, and place of meeting at which it proposes
21 27 to take action, and give notice by publication in the
21 28 manner directed in section 331.305. The notice must
21 29 include a statement of the date, time, and place of
21 30 the meeting, the maximum amount of the proposed
21 31 revenue bonds, the purpose for which the revenue bonds
21 32 will be issued, and the net revenues to be used to pay
21 33 the principal and interest on the revenue bonds.
21 34 b. At the meeting the board shall receive oral or
21 35 written objections from any resident or property owner
21 36 within the jurisdiction of the port authority. After
21 37 all objections have been received and considered, the
21 38 board, at the meeting or a date to which it is
21 39 adjourned, may take additional action for the issuance
21 40 of the bonds or abandon the proposal to issue bonds.
21 41 Any resident or property owner within the jurisdiction
21 42 of the port authority may appeal a decision of the
21 43 board to take additional action in district court
21 44 within fifteen days after the additional action is
21 45 taken, but the additional action of the board is final
21 46 and conclusive unless the court finds that the board

21 47 exceeded its authority.
21 48 3. The board may sell revenue bonds or pledge
21 49 orders at public or private sale and may deliver
21 50 revenue bonds and pledge orders to the contractors,
22 1 sellers, and other persons furnishing materials and
22 2 services constituting a part of the cost of the port
22 3 authority facility in payment therefor. The pledge of
22 4 any net revenues of a port authority is valid and
22 5 effective as to all persons including but not limited
22 6 to other governmental bodies when it becomes valid and
22 7 effective between the port authority and the holders
22 8 of the revenue bonds or pledge orders.
22 9 4. A revenue bond is valid and binding for all
22 10 purposes if it bears the signatures or a facsimile of
22 11 the signature of the officer designated by the port
22 12 authority. Port authority revenue bonds may bear
22 13 dates, bear interest at rates not exceeding those
22 14 permitted by chapter 74A, bear interest at a variable
22 15 rate or rates changing from time to time in accordance
22 16 with a base or formula, mature in one or more
22 17 installments, be in registered form, carry
22 18 registration and conversion privileges, be payable as
22 19 to principal and interest at times and places, be
22 20 subject to terms of redemption prior to maturity with
22 21 or without premium, and be in one or more
22 22 denominations, all as provided by the resolution of
22 23 the board authorizing their issuance. The resolution
22 24 may also prescribe additional provisions, terms,
22 25 conditions, and covenants which the port authority
22 26 deems advisable, consistent with this chapter,
22 27 including provisions for creating and maintaining
22 28 reserve funds, the issuance of additional revenue
22 29 bonds ranking on a parity with such revenue bonds and
22 30 additional revenue bonds junior and subordinate to
22 31 such revenue bonds, and that such revenue bonds shall
22 32 rank on a parity with or be junior and subordinate to
22 33 any revenue bonds which may be then outstanding. Port
22 34 authority revenue bonds are a contract between the
22 35 port authority and holders and the resolution is a
22 36 part of the contract.
22 37 5. The port authority may issue revenue bonds to
22 38 refund revenue bonds, pledge orders, and other
22 39 obligations which are by their terms payable from the
22 40 net revenues of the same port authority, at lower, the
22 41 same, or higher rates of interest. A port authority
22 42 may sell refunding revenue bonds at public or private
22 43 sale and apply the proceeds to the payment of the
22 44 obligations being refunded, and may exchange refunding
22 45 revenue bonds in payment and discharge of the
22 46 obligations being refunded. The principal amount of
22 47 refunding revenue bonds may exceed the principal
22 48 amount of the obligations being refunded to the extent
22 49 necessary to pay any premium due on the call of the
22 50 obligations being refunded and to fund interest
23 1 accrued and to accrue on the obligations being
23 2 refunded.
23 3 6. The final maturity of any original issue of
23 4 port authority revenue bonds shall not exceed forty
23 5 years from the date of issue, and the final maturity
23 6 of port authority revenue bonds that refund
23 7 outstanding port authority revenue bonds shall not be
23 8 later than the later of forty years from the date of
23 9 issue of the original issue of bonds or the date by
23 10 which it is expected, at the time of issuance of the
23 11 refunding bonds, that the useful life of all of the
23 12 property refinanced with the proceeds of the bonds,
23 13 other than interests in land, will have expired. Such
23 14 bonds or notes shall be executed in a manner as the
23 15 resolution may provide.
23 16 7. The port authority may contract to pay an
23 17 amount not to exceed ninety-five percent of the
23 18 engineer's estimated value of the acceptable work
23 19 completed during the month to the contractor at the
23 20 end of each month for work, material, or services.
23 21 Payment may be made in warrants drawn on any fund from
23 22 which payment for the work may be made. If such funds
23 23 are depleted, anticipatory warrants may be issued
23 24 bearing a rate of interest not exceeding that
23 25 permitted by chapter 74A even if income from the sale
23 26 of bonds which have been authorized and are applicable
23 27 to the public improvement takes place after the fiscal

23 28 year in which the warrants are issued. If the port
23 29 authority arranges for the private sale of
23 30 anticipatory warrants, the warrants may be sold and
23 31 the proceeds used to pay the contractor. The warrants
23 32 may also be used to pay other persons furnishing
23 33 services constituting a part of the cost of the public
23 34 improvement.

23 35 8. Port authority revenue bonds, pledge orders,
23 36 and warrants issued under this section are negotiable
23 37 instruments.

23 38 9. The board may issue pledge orders pursuant to a
23 39 resolution adopted by a majority of the total number
23 40 of supervisors, at a regular or special meeting,
23 41 ordering their issuance and delivery in payment for
23 42 all or part of the cost of a project. Pledge orders
23 43 may bear interest at rates not exceeding those
23 44 permitted by chapter 74A.

23 45 10. Except as provided in section 28J.20, the
23 46 physical properties of the port authority shall not be
23 47 pledged or mortgaged to secure the payment of revenue
23 48 bonds, pledge orders, or refunding bonds, or the
23 49 interest thereon.

23 50 11. The members of the board of the port authority
24 1 and any person executing the bonds or pledge orders
24 2 shall not be personally liable on the bonds or pledge
24 3 orders or be subject to any personal liability or
24 4 accountability by reason of the issuance thereof.

24 5 Sec. _____. NEW SECTION. 28J.22 BONDS MAY BE
24 6 SECURED BY TRUST AGREEMENT.

24 7 1. In the discretion of the port authority, a port
24 8 authority revenue bond issued under this chapter may
24 9 be secured by a trust agreement between the port
24 10 authority and a corporate trustee that may be any
24 11 trust company or bank having the powers of a trust
24 12 company within this or any other state.

24 13 2. The trust agreement may pledge or assign
24 14 revenues of the port authority to be received for
24 15 payment of the revenue bonds. The trust agreement or
24 16 any resolution providing for the issuance of revenue
24 17 bonds may contain provisions for protecting and
24 18 enforcing the rights and remedies of the bondholders
24 19 as are reasonable and proper and not in violation of
24 20 law, including covenants setting forth the duties of
24 21 the port authority in relation to the acquisition of
24 22 property, the construction, improvement, maintenance,
24 23 repair, operation, and insurance of the port authority
24 24 facility in connection with which the bonds are
24 25 authorized, the rentals or other charges to be imposed
24 26 for the use or services of any port authority
24 27 facility, the custody, safeguarding, and application
24 28 of all moneys, and provisions for the employment of
24 29 consulting engineers in connection with the
24 30 construction or operation of any port authority
24 31 facility.

24 32 3. A bank or trust company incorporated under the
24 33 laws of this state, that may act as the depository of
24 34 the proceeds of bonds or of revenues, shall furnish
24 35 any indemnifying bonds or may pledge any securities
24 36 that are required by the port authority. The trust
24 37 agreement may set forth the rights and remedies of the
24 38 bondholders and of the trustee, and may restrict the
24 39 individual right of action by bondholders as is
24 40 customary in trust agreements or trust indentures
24 41 securing similar bonds. The trust agreement may
24 42 contain any other provisions that the port authority
24 43 determines reasonable and proper for the security of
24 44 the bondholders. All expenses incurred in carrying
24 45 out the provisions of the trust agreement may be
24 46 treated as a part of the cost of the operation of the
24 47 port authority facility.

24 48 Sec. _____. NEW SECTION. 28J.23 REMEDY OF HOLDER
24 49 OF BOND OR COUPON == STATUTE OF LIMITATIONS.

24 50 1. The sole remedy for a breach or default of a
25 1 term of a port authority revenue bond or pledge order
25 2 is a proceeding in law or in equity by suit, action,
25 3 or mandamus to enforce and compel performance of the
25 4 duties required by this chapter and of the terms of
25 5 the resolution authorizing the issuance of the revenue
25 6 bonds or pledge orders, or to obtain the appointment
25 7 of a receiver to take possession of and operate the
25 8 port authority, and to perform the duties required by

25 9 this chapter and the terms of the resolution
25 10 authorizing the issuance of the port authority revenue
25 11 bonds or pledge orders.

25 12 2. An action shall not be brought which questions
25 13 the legality of port authority revenue bonds or pledge
25 14 orders, the power of a port authority to issue revenue
25 15 bonds or pledge orders, or the effectiveness of any
25 16 proceedings relating to the authorization and issuance
25 17 of revenue bonds or pledge orders, from and after
25 18 fifteen days from the time the bonds or pledge orders
25 19 are ordered issued by the port authority.

25 20 Sec. _____. NEW SECTION. 28J.24 BONDS ARE PAYABLE
25 21 SOLELY FROM REVENUES AND FUNDS PLEDGED FOR PAYMENT.

25 22 Port authority revenue bonds and pledge orders
25 23 issued under this chapter do not constitute a debt, or
25 24 a pledge of the faith and credit, of the state or a
25 25 political subdivision of the state, and the holders or
25 26 owners of the bonds or pledge orders shall not have
25 27 taxes levied by the state or by a taxing authority of
25 28 a governmental agency of the state for the payment of
25 29 the principal or interest on the bonds or pledge
25 30 orders, but the bonds and pledge orders are payable
25 31 solely from the revenues and funds pledged for their
25 32 payment as authorized by this chapter, unless the
25 33 notes are issued in anticipation of the issuance of
25 34 bonds or pledge orders or the bonds and pledge orders
25 35 are refunded by refunding bonds issued under this
25 36 chapter, which bonds, pledge orders, or refunding
25 37 bonds shall be payable solely from revenues and funds
25 38 pledged for their payment as authorized by those
25 39 sections. All of the bonds or pledge orders shall
25 40 contain a statement to the effect that the bonds or
25 41 pledge orders, as to both principal and interest, are
25 42 not debts of the state or a political subdivision of
25 43 the state, but are payable solely from revenues and
25 44 funds pledged for their payment.

25 45 Sec. _____. NEW SECTION. 28J.25 FUNDS AND PROPERTY
25 46 HELD IN TRUST == USE AND DEPOSIT OF FUNDS.

25 47 All revenues, funds, properties, and assets
25 48 acquired by the port authority under this chapter,
25 49 whether as proceeds from the sale of port authority
25 50 revenue bonds, pledge orders, or as revenues, shall be
26 1 held in trust for the purposes of carrying out the
26 2 port authority's powers and duties, shall be used and
26 3 reused as provided in this chapter, and shall at no
26 4 time be part of other public funds. Such funds,
26 5 except as otherwise provided in a resolution
26 6 authorizing port authority revenue bonds or in a trust
26 7 agreement securing the same, or except when invested
26 8 pursuant to section 28J.26, shall be kept in
26 9 depositories selected by the port authority in the
26 10 manner provided in chapter 12C, and the deposits shall
26 11 be secured as provided in that chapter. The
26 12 resolution authorizing the issuance of revenue bonds
26 13 or pledge orders, or the trust agreement securing such
26 14 bonds or pledge orders shall provide that any officer
26 15 to whom, or any bank or trust company to which, such
26 16 moneys are paid shall act as trustee of such moneys
26 17 and hold and apply them for the purposes hereof,
26 18 subject to such conditions as this chapter and such
26 19 resolution or trust agreement provide.

26 20 Sec. _____. NEW SECTION. 28J.26 INVESTMENT OF
26 21 EXCESS FUNDS.

26 22 1. If a port authority has surplus funds after
26 23 making all deposits into all funds required by the
26 24 terms, covenants, conditions, and provisions of
26 25 outstanding revenue bonds, pledge orders, and
26 26 refunding bonds which are payable from the revenues of
26 27 the port authority and after complying with all of the
26 28 requirements, terms, covenants, conditions, and
26 29 provisions of the proceedings and resolutions pursuant
26 30 to which revenue bonds, pledge orders, and refunding
26 31 bonds are issued, the board may transfer the surplus
26 32 funds to any other fund of the port authority in
26 33 accordance with this chapter and chapter 12C, provided
26 34 that a transfer shall not be made if it conflicts with
26 35 any of the requirements, terms, covenants, conditions,
26 36 or provisions of a resolution authorizing the issuance
26 37 of revenue bonds, pledge orders, or other obligations
26 38 which are payable from the revenues of the port
26 39 authority which are then outstanding.

26 40 2. This section does not prohibit or prevent the
26 41 board from using funds derived from any other source
26 42 which may be properly used for such purpose, to pay a
26 43 part of the cost of a facility.

26 44 Sec. _____. NEW SECTION. 28J.27 CHANGE IN LOCATION
26 45 OF PUBLIC WAY, RAILROAD, OR UTILITY FACILITY ==
26 46 VACATION OF HIGHWAY.

26 47 1. When a port authority changes the location of
26 48 any portion of any public road, railroad, or utility
26 49 facility in connection with the construction of a port
26 50 authority facility, the port authority shall
27 1 reconstruct at such location as the governmental
27 2 agency having jurisdiction over such road, railroad,
27 3 or utility facility finds most favorable. The
27 4 construction of such road, railroad, or utility
27 5 facility shall be of substantially the same type and
27 6 in as good condition as the original road, railroad,
27 7 or utility facility. The cost of such reconstruction,
27 8 relocation, or removal and any damage incurred in
27 9 changing the location of any such road, railroad, or
27 10 utility facility shall be paid by the port authority
27 11 as a part of the cost of the port authority facility.

27 12 2. When the port authority finds it necessary that
27 13 a public highway or portion of a public highway be
27 14 vacated by reason of the acquisition or construction
27 15 of a port authority facility, the port authority may
27 16 request the director of the department of
27 17 transportation to vacate such highway or portion in
27 18 accordance with chapter 306 if the highway or portion
27 19 to be vacated is on the state highway system, or, if
27 20 the highway or portion to be vacated is under the
27 21 jurisdiction of a county, the port authority shall
27 22 petition the board of supervisors of that county, in
27 23 the manner provided in chapter 306, to vacate such
27 24 highway or portion. The port authority shall pay to
27 25 the county, as a part of the cost of such port
27 26 authority facility, any amounts required to be
27 27 deposited with a court in connection with proceedings
27 28 for the determination of compensation and damages and
27 29 all amounts of compensation and damages finally
27 30 determined to be payable as a result of such vacation.

27 31 3. The port authority may adopt bylaws for the
27 32 installation, construction, maintenance, repair,
27 33 renewal, relocation, and removal of railroad or
27 34 utility facilities in, on, over, or under any port
27 35 authority facility. Whenever the port authority
27 36 determines that it is necessary that any such facility
27 37 installed or constructed in, on, over, or under
27 38 property of the port authority pursuant to such bylaws
27 39 be relocated, the utility company owning or operating
27 40 such facility shall relocate or remove them in
27 41 accordance with the order of the port authority. The
27 42 cost and expenses of such relocation or removal,
27 43 including the cost of installing such facility in a
27 44 new location, the cost of any lands, or any rights or
27 45 interests in lands, and any other rights, acquired to
27 46 accomplish such relocation or removal, shall be paid
27 47 by the port authority as a part of the cost of the
27 48 port authority facility. In case of any such
27 49 relocation or removal of such facilities, the railroad
27 50 or utility company owning or operating them, its
28 1 successors, or assigns may maintain and operate such
28 2 facilities, with the necessary appurtenances, in the
28 3 new location in, on, over, or under the property of
28 4 the port authority for as long a period and upon the
28 5 same terms as the railroad or utility company had the
28 6 right to maintain and operate such facilities in their
28 7 former location.

28 8 Sec. _____. NEW SECTION. 28J.28 FINAL ACTIONS TO
28 9 BE RECORDED == ANNUAL REPORT == CONFIDENTIALITY OF
28 10 INFORMATION.

28 11 1. All final actions of the port authority shall
28 12 be recorded and the records of the port authority
28 13 shall be open to public examination and copying
28 14 pursuant to chapter 22. Not later than the first day
28 15 of April every year, a port authority shall submit a
28 16 report to the director of the department of economic
28 17 development detailing the projects and activities of
28 18 the port authority during the previous calendar year.
28 19 The report shall include, but not be limited to, all
28 20 aspects of those projects and activities, including

28 21 the progress and status of the projects and their
28 22 costs, and any other information the director
28 23 determines should be included in the report.

28 24 2. Financial and proprietary information,
28 25 including trade secrets, submitted to a port authority
28 26 or the agents of a port authority, in connection with
28 27 the relocation, location, expansion, improvement, or
28 28 preservation of a business or nonprofit corporation is
28 29 not a public record subject to chapter 22. Any other
28 30 information submitted under those circumstances is not
28 31 a public record subject to chapter 22 until there is a
28 32 commitment in writing to proceed with the relocation,
28 33 location, expansion, improvement, or preservation.

28 34 3. Notwithstanding chapter 21, the board of
28 35 directors of a port authority, when considering
28 36 information that is not a public record under this
28 37 section, may close a meeting during the consideration
28 38 of that information pursuant to a vote of the majority
28 39 of the directors present on a motion stating that such
28 40 information is to be considered. Other matters shall
28 41 not be considered during the closed session.

28 42 Sec. ____ NEW SECTION. 28J.29 PROVISIONS TO BE
28 43 LIBERALLY CONSTRUED.

28 44 This chapter shall be liberally construed to effect
28 45 the chapter's purposes.

28 46 Sec. ____ Section 427.1, Code 2005, is amended by
28 47 adding the following new subsection:

28 48 NEW SUBSECTION. 34. PORT AUTHORITY PROPERTY. The
28 49 property of a port authority created pursuant to
28 50 section 28J.2, when devoted to public use and not held
29 1 for pecuniary profit.

29 2 DIVISION ____
29 3 PROPERTY ASSESSMENT

29 4 Sec. ____ Section 7E.6, subsection 5, Code 2005,
29 5 is amended to read as follows:

29 6 5. Any position of membership on the board of
29 7 parole, the public employment relations board, the
29 8 utilities board, ~~and~~ the employment appeal board, ~~and~~
29 9 ~~the property assessment appeal board~~ shall be
29 10 compensated as otherwise provided in law.

29 11 Sec. ____ Section 13.7, Code 2005, is amended to
29 12 read as follows:

29 13 13.7 SPECIAL COUNSEL.

29 14 Compensation shall not be allowed to any person for
29 15 services as an attorney or counselor to an executive
29 16 department of the state government, or the head
29 17 thereof, or to a state board or commission. However,
29 18 the executive council may employ legal assistance, at
29 19 a reasonable compensation, in a pending action or
29 20 proceeding to protect the interests of the state, but
29 21 only upon a sufficient showing, in writing, made by
29 22 the attorney general, that the department of justice
29 23 cannot for reasons stated by the attorney general
29 24 perform the service, which reasons and action of the
29 25 council shall be entered upon its records. When the
29 26 attorney general determines that the department of
29 27 justice cannot perform legal service in an action or
29 28 proceeding, the executive council shall request the
29 29 department involved in the action or proceeding to
29 30 recommend legal counsel to represent the department.
29 31 If the attorney general concurs with the department
29 32 that the person recommended is qualified and suitable
29 33 to represent the department, the person recommended
29 34 shall be employed. If the attorney general does not
29 35 concur in the recommendation, the department shall
29 36 submit a new recommendation. This section does not
29 37 affect the general counsel for the utilities board of
29 38 the department of commerce, ~~or~~ the legal counsel of
29 39 the department of workforce development, ~~or the~~
29 40 ~~general counsel for the property assessment appeal~~
29 41 ~~board~~.

29 42 Sec. ____ NEW SECTION. 421.1A PROPERTY
29 43 ASSESSMENT APPEAL BOARD.

29 44 1. A statewide property assessment appeal board is
29 45 created for the purpose of establishing a consistent,
29 46 fair, and equitable property assessment appeal
29 47 process. The statewide property assessment appeal
29 48 board is established within the department of revenue
29 49 for administrative and budgetary purposes. The
29 50 board's principal office shall be in the office of the
30 1 department of revenue in the capital of the state.

30 2 2. a. The property assessment appeal board shall
30 3 consist of three members appointed to staggered six=
30 4 year terms, beginning and ending as provided in
30 5 section 69.19, by the governor and subject to
30 6 confirmation by the senate. Subject to confirmation
30 7 by the senate, the governor shall appoint from the
30 8 members a chairperson of the board to a two-year term.
30 9 Vacancies on the board shall be filled for the
30 10 unexpired portion of the term in the same manner as
30 11 regular appointments are made. The term of office for
30 12 the initial board shall begin January 1, 2007.

30 13 b. Each member of the property assessment appeal
30 14 board shall be qualified by virtue of at least two
30 15 years' experience in the area of government,
30 16 corporate, or private practice relating to property
30 17 appraisal and property tax administration. One member
30 18 of the board shall be a certified real estate
30 19 appraiser or hold a professional appraisal
30 20 designation, one member shall be an attorney
30 21 practicing in the area of state and local taxation or
30 22 property tax appraisals, and one member shall be a
30 23 professional with experience in the field of
30 24 accounting or finance and with experience in state and
30 25 local taxation matters. No more than two members of
30 26 the board may be from the same political party as that
30 27 term is defined in section 43.2.

30 28 c. The property assessment appeal board shall
30 29 organize by appointing a secretary who shall take the
30 30 same oath of office as the members of the board. The
30 31 board may employ additional personnel as it finds
30 32 necessary. All personnel employed by the board shall
30 33 be considered state employees and are subject to the
30 34 merit system provisions of chapter 8A, subchapter IV.

30 35 3. At the election of a property owner or
30 36 aggrieved taxpayer or an appellant described in
30 37 section 441.42, the property assessment appeal board
30 38 shall review any final decision, finding, ruling,
30 39 determination, or order of a local board of review
30 40 relating to protests of an assessment, valuation, or
30 41 application of an equalization order.

30 42 4. The property assessment appeal board may do all
30 43 of the following:

30 44 a. Affirm, reverse, or modify a final decision,
30 45 finding, ruling, determination, or order of a local
30 46 board of review.

30 47 b. Order the payment or refund of property taxes
30 48 in a matter over which the board has jurisdiction.

30 49 c. Grant other relief or issue writs, orders, or
30 50 directives that the board deems necessary or
31 1 appropriate in the process of disposing of a matter
31 2 over which the board has jurisdiction.

31 3 d. Subpoena documents and witnesses and administer
31 4 oaths.

31 5 e. Adopt administrative rules pursuant to chapter
31 6 17A for the administration and implementation of its
31 7 powers, including rules for practice and procedure for
31 8 protests filed with the board, the manner in which
31 9 hearings on appeals of assessments shall be conducted,
31 10 filing fees to be imposed by the board, and for the
31 11 determination of the correct assessment of property
31 12 which is the subject of an appeal.

31 13 f. Adopt administrative rules pursuant to chapter
31 14 17A necessary for the preservation of order and the
31 15 regulation of proceedings before the board, including
31 16 forms or notice and the service thereof, which rules
31 17 shall conform as nearly as possible to those in use in
31 18 the courts of this state.

31 19 5. The property assessment appeal board shall
31 20 employ a competent attorney to serve as its general
31 21 counsel, and assistants to the general counsel as it
31 22 finds necessary for the full and efficient discharge
31 23 of its duties. The general counsel is the attorney
31 24 for, and legal advisor of, the board. The general
31 25 counsel or an assistant to the general counsel shall
31 26 provide the necessary legal advice to the board in all
31 27 matters and shall represent the board in all actions
31 28 instituted in a court challenging the validity of a
31 29 rule or order of the board. The general counsel shall
31 30 devote full time to the duties of the office. During
31 31 employment as general counsel to the board, the
31 32 counsel shall not be a member of a political

31 33 committee, contribute to a political campaign,
31 34 participate in a political campaign, or be a candidate
31 35 for partisan political office. The general counsel
31 36 and assistants to the general counsel shall be
31 37 considered state employees and are subject to the
31 38 merit system provisions of chapter 8A, subchapter IV.

31 39 6. The members of the property assessment appeal
31 40 board shall receive compensation from the state
31 41 commensurate with the salary of a district judge. The
31 42 members of the board shall not be considered state
31 43 employees for purposes of salary and benefits. The
31 44 members of the board and any employees of the board,
31 45 when required to travel in the discharge of official
31 46 duties, shall be paid their actual and necessary
31 47 expenses incurred in the performance of duties.

31 48 7. a. Effective January 1, 2012, a property
31 49 assessment appeal board review committee is
31 50 established. Staffing assistance to the committee
32 1 shall be provided by the department of revenue. The
32 2 committee shall consist of six members of the general
32 3 assembly, two appointed by the majority leader of the
32 4 senate, one appointed by the minority leader of the
32 5 senate, two appointed by the speaker of the house of
32 6 representatives, and one appointed by the minority
32 7 leader of the house of representatives; the director
32 8 of revenue or the director's designee; a county
32 9 assessor appointed by the Iowa state association of
32 10 counties; and a city assessor appointed by the Iowa
32 11 league of cities.

32 12 b. The property assessment appeal board review
32 13 committee shall review the activities of the property
32 14 assessment appeal board since its inception. The
32 15 review committee may recommend the revision of any
32 16 rules, regulations, directives, or forms relating to
32 17 the activities of the property assessment appeal
32 18 board.

32 19 c. The review committee shall report to the
32 20 general assembly by January 15, 2013. The report
32 21 shall include any recommended changes in laws relating
32 22 to the property assessment appeal board, the reasons
32 23 for the committee's recommendations, and any other
32 24 information the committee deems advisable.

32 25 Sec. _____. Section 428.4, unnumbered paragraph 1,
32 26 Code 2005, is amended to read as follows:

32 27 Property shall be assessed for taxation each year.
32 28 Real estate shall be listed and assessed in 1981 and
32 29 every two years thereafter. The assessment of real
32 30 estate shall be the value of the real estate as of
32 31 January 1 of the year of the assessment. The year
32 32 1981 and each odd-numbered year thereafter shall be a
32 33 reassessment year. In any year, after the year in
32 34 which an assessment has been made of all the real
32 35 estate in an assessing jurisdiction, the assessor
32 36 shall value and assess or revalue and reassess, as the
32 37 case may require, any real estate that the assessor
32 38 finds was incorrectly valued or assessed, or was not
32 39 listed, valued, and assessed, in the assessment year
32 40 immediately preceding, also any real estate the
32 41 assessor finds has changed in value subsequent to
32 42 January 1 of the preceding real estate assessment
32 43 year. However, a percentage increase on a class of
32 44 property shall not be made in a year not subject to an
32 45 equalization order unless ordered by the department of
32 46 revenue. The assessor shall determine the actual
32 47 value and compute the taxable value thereof as of
32 48 January 1 of the year of the revaluation and
32 49 reassessment. The assessment shall be completed as
32 50 specified in section 441.28, but no reduction or
33 1 increase in actual value shall be made for prior
33 2 years. If an assessor makes a change in the valuation
33 3 of the real estate as provided for, sections 441.23,
33 4 441.37, 441.37A, 441.38 and 441.39 apply.

33 5 Sec. _____. Section 441.19, subsection 4, Code 2005,
33 6 is amended to read as follows:

33 7 4. The supplemental returns ~~herein~~ provided for in
33 8 this section shall be preserved in the same manner as
33 9 assessment rolls, but shall be confidential to the
33 10 assessor, board of review, property assessment appeal
33 11 board, or director of revenue, and shall not be open
33 12 to public inspection, but any final assessment roll as
33 13 made out by the assessor shall be a public record,

33 14 provided that such supplemental return shall be
33 15 available to counsel of either the person making the
33 16 return or of the public, in case any appeal is taken
33 17 to the board of review, to the property assessment
33 18 appeal board, or to the court.

33 19 Sec. _____. Section 441.21, subsection 1, Code 2005,
33 20 is amended by adding the following new paragraphs:

33 21 NEW PARAGRAPH. h. The assessor shall determine
33 22 the value of real property in accordance with rules
33 23 adopted by the department of revenue and in accordance
33 24 with forms and guidelines contained in the real
33 25 property appraisal manual prepared by the department
33 26 as updated from time to time. Such rules, forms, and
33 27 guidelines shall not be inconsistent with or change
33 28 the means, as provided in this section, of determining
33 29 the actual, market, taxable, and assessed values.

33 30 NEW PARAGRAPH. i. If the department finds that a
33 31 city or county assessor is not in compliance with the
33 32 rules of the department relating to valuation of
33 33 property or has disregarded the forms and guidelines
33 34 contained in the real property appraisal manual, the
33 35 department shall notify the assessor and each member
33 36 of the conference board for the appropriate assessing
33 37 jurisdiction. The notice shall be mailed by
33 38 restricted certified mail. The notice shall specify
33 39 the areas of noncompliance and the steps necessary to
33 40 achieve compliance. The notice shall also inform the
33 41 assessor and conference board that if compliance is
33 42 not achieved, a penalty may be imposed.

33 43 The conference board shall respond to the
33 44 department within thirty days of receipt of the notice
33 45 of noncompliance. The conference board may respond to
33 46 the notice by asserting that the assessor is in
33 47 compliance with the rules, guidelines, and forms of
33 48 the department or by informing the department that the
33 49 conference board intends to submit a plan of action to
33 50 achieve compliance. If the conference board responds
34 1 to the notification by asserting that the assessor is
34 2 in compliance, a hearing before the director of
34 3 revenue shall be scheduled on the matter.

34 4 A plan of action shall be submitted within sixty
34 5 days of receipt of the notice of noncompliance. The
34 6 plan shall contain a time frame under which compliance
34 7 shall be achieved which shall be no later than January
34 8 1 of the following assessment year. The plan of
34 9 action shall contain the signature of the assessor and
34 10 of the chairperson of the conference board. The
34 11 department shall review the plan to determine whether
34 12 the plan is sufficient to achieve compliance. Within
34 13 thirty days of receipt of the plan, the department
34 14 shall notify the assessor and the chairperson of the
34 15 conference board that it has accepted the plan or that
34 16 it is necessary to submit an amended plan of action.

34 17 By January 1 of the assessment year following the
34 18 calendar year in which the plan was submitted to the
34 19 department, the conference board shall submit a report
34 20 to the department indicating that the plan of action
34 21 was followed and compliance has been achieved. The
34 22 department may conduct a field inspection to ensure
34 23 that the assessor is in compliance. By January 31,
34 24 the department shall notify the assessor and the
34 25 conference board, by restricted certified mail, either
34 26 that compliance has been achieved or that the assessor
34 27 remains in noncompliance. If the department
34 28 determines that the assessor remains in noncompliance,
34 29 the department shall take steps to withhold up to five
34 30 percent of the reimbursement payment authorized in
34 31 section 425.1 until the director of revenue determines
34 32 that the assessor is in compliance.

34 33 If the conference board disputes the determination
34 34 of the department, the chairperson of the conference
34 35 board may appeal the determination to the state board
34 36 of tax review.

34 37 The department shall adopt rules relating to the
34 38 administration of this paragraph "i".

34 39 Sec. _____. Section 441.21, subsection 2, Code 2005,
34 40 is amended to read as follows:

34 41 2. In the event market value of the property being
34 42 assessed cannot be readily established in the
34 43 foregoing manner, then the assessor may determine the
34 44 value of the property using the other uniform and

34 45 recognized appraisal methods including its productive
34 46 and earning capacity, if any, industrial conditions,
34 47 its cost, physical and functional depreciation and
34 48 obsolescence and replacement cost, and all other
34 49 factors which would assist in determining the fair and
34 50 reasonable market value of the property but the actual
35 1 value shall not be determined by use of only one such
35 2 factor. The following shall not be taken into
35 3 consideration: Special value or use value of the
35 4 property to its present owner, and the good will or
35 5 value of a business which uses the property as
35 6 distinguished from the value of the property as
35 7 property. However, in assessing property that is
35 8 rented or leased to low-income individuals and
35 9 families as authorized by section 42 of the Internal
35 10 Revenue Code, as amended, and which section limits the
35 11 amount that the individual or family pays for the
35 12 rental or lease of units in the property, the assessor
35 13 shall use the productive and earning capacity from the
35 14 actual rents received as a method of appraisal and
35 15 shall take into account the extent to which that use
35 16 and limitation reduces the market value of the
35 17 property. The assessor shall not consider any tax
35 18 credit equity or other subsidized financing as income
35 19 provided to the property in determining the assessed
35 20 value. The property owner shall notify the assessor
35 21 when property is withdrawn from section 42 eligibility
35 22 under the Internal Revenue Code. The property shall
35 23 not be subject to section 42 assessment procedures for
35 24 the assessment year for which section 42 eligibility
35 25 is withdrawn. This notification must be provided to
35 26 the assessor no later than March 1 of the assessment
35 27 year or the owner will be subject to a penalty of five
35 28 hundred dollars for that assessment year. The penalty
35 29 shall be collected at the same time and in the same
35 30 manner as regular property taxes. Upon adoption of
35 31 uniform rules by the ~~revenue~~ department of revenue or
35 32 succeeding authority covering assessments and
35 33 valuations of such properties, ~~said the~~ valuation on
35 34 such properties shall be determined in accordance
35 35 ~~therewith with such rules and in accordance with forms~~
35 36 and guidelines contained in the real property

35 37 appraisal manual prepared by the department as updated
35 38 from time to time for assessment purposes to assure

35 39 uniformity, but such rules, forms, and guidelines
35 40 shall not be inconsistent with or change the foregoing
35 41 means of determining the actual, market, taxable and
35 42 assessed values.

35 43 Sec. _____. Section 441.28, Code 2005, is amended to
35 44 read as follows:

35 45 441.28 ASSESSMENT ROLLS == CHANGE == NOTICE TO
35 46 TAXPAYER.

35 47 The assessment shall be completed not later than
35 48 April 15 each year. If the assessor makes any change
35 49 in an assessment after it has been entered on the
35 50 assessor's rolls, the assessor shall note on ~~said the~~
36 1 roll, together with the original assessment, the new
36 2 assessment and the reason for the change, together
36 3 with the assessor's signature and the date of the
36 4 change. Provided, however, in the event the assessor
36 5 increases any assessment the assessor shall give
36 6 notice of the increase in writing ~~thereof~~ to the
36 7 taxpayer by mail ~~prior to the meeting of the board of~~
36 8 ~~review postmarked no later than April 15.~~ No changes
36 9 shall be made on the assessment rolls after April 15
36 10 except by order of the board of review or of the
36 11 property assessment appeal board, or by decree of

36 12 court.

36 13 Sec. _____. Section 441.35, unnumbered paragraph 2,
36 14 Code 2005, is amended to read as follows:

36 15 In any year after the year in which an assessment
36 16 has been made of all of the real estate in any taxing
36 17 district, ~~it shall be the duty of~~ the board of review
36 18 ~~to shall~~ meet as provided in section 441.33, and where
36 19 ~~it the board~~ finds the same has changed in value, ~~to~~
36 20 the board shall revalue and reassess any part or all
36 21 of the real estate contained in such taxing district,
36 22 and in such case, ~~it the board~~ shall determine the
36 23 actual value as of January 1 of the year of the
36 24 revaluation and reassessment and compute the taxable
36 25 value thereof, ~~and any.~~ Any aggrieved taxpayer may

36 26 petition for a revaluation of the taxpayer's property,
36 27 but no reduction or increase shall be made for prior
36 28 years. If the assessment of any such property is
36 29 raised, or any property is added to the tax list by
36 30 the board, the clerk shall give notice in the manner
36 31 provided in section 441.36, ~~provided, however, that,~~
36 32 ~~However,~~ if the assessment of all property in any
36 33 taxing district is raised, the board may instruct the
36 34 clerk to give immediate notice by one publication in
36 35 one of the official newspapers located in the taxing
36 36 district, and such published notice shall take the
36 37 place of the mailed notice provided for in section
36 38 441.36, but all other provisions of ~~said that~~ section
36 39 shall apply. The decision of the board as to the
36 40 foregoing matters shall be subject to appeal to the
36 41 property assessment appeal board within the same time
36 42 and in the same manner as provided in section 441.37A
36 43 and to the district court within the same time and in

36 44 the same manner as provided in section 441.38.
36 45 Sec. _____. NEW SECTION. 441.37A APPEAL OF PROTEST
36 46 TO PROPERTY ASSESSMENT APPEAL BOARD.

36 47 1. For the assessment year beginning January 1,
36 48 2007, and all subsequent assessment years, appeals may
36 49 be taken from the action of the board of review with
36 50 reference to protests of assessment, valuation, or
37 1 application of an equalization order to the property
37 2 assessment appeal board created in section 421.1A.
37 3 However, a property owner or aggrieved taxpayer or an
37 4 appellant described in section 441.42 may bypass the
37 5 property assessment appeal board and appeal the
37 6 decision of the local board of review to the district
37 7 court pursuant to section 441.38. For an appeal to
37 8 the property assessment appeal board to be valid,
37 9 written notice must be filed by the party appealing
37 10 the decision with the secretary of the property
37 11 assessment appeal board within twenty days after the
37 12 date the board of review's letter of disposition of
37 13 the appeal is postmarked to the party making the
37 14 protest. The written notice of appeal shall include a
37 15 petition setting forth the basis of the appeal and the
37 16 relief sought. No new grounds in addition to those
37 17 set out in the protest to the local board of review as
37 18 provided in section 441.37 can be pleaded, but
37 19 additional evidence to sustain those grounds may be
37 20 introduced. The assessor shall have the same right to
37 21 appeal to the assessment appeal board as an individual
37 22 taxpayer, public body, or other public officer as
37 23 provided in section 441.42.

37 24 Filing of the written notice of appeal and petition
37 25 with the secretary of the property assessment appeal
37 26 board shall preserve all rights of appeal of the
37 27 appellant, except as otherwise provided in subsection
37 28 2. A copy of the appellant's written notice of appeal
37 29 and petition shall be mailed by the secretary of the
37 30 property assessment appeal board to the local board of
37 31 review whose decision is being appealed. In all cases
37 32 where a change in assessed valuation of one hundred
37 33 thousand dollars or more is petitioned for, the local
37 34 board of review shall mail a copy of the written
37 35 notice of appeal and petition to all affected taxing
37 36 districts as shown on the last available tax list.

37 37 2. A party to the appeal may request a hearing or
37 38 the appeal may proceed without a hearing. If a
37 39 hearing is requested, the appellant and the local
37 40 board of review from which the appeal is taken shall
37 41 be given at least thirty days' written notice by the
37 42 property assessment appeal board of the date the
37 43 appeal shall be heard and the local board of review
37 44 may be present and participate at such hearing.
37 45 Notice to all affected taxing districts shall be
37 46 deemed to have been given when written notice is
37 47 provided to the local board of review. Failure by the
37 48 appellant to appear at the property assessment appeal
37 49 board hearing shall be grounds for dismissal of the
37 50 appeal unless a continuance is granted to the
38 1 appellant. If an appeal is dismissed for failure to
38 2 appear, the property assessment appeal board shall
38 3 have no jurisdiction to consider any subsequent appeal
38 4 on the appellant's protest.

38 5 An appeal may be considered by less than a majority
38 6 of the members of the board, and the chairperson of

38 7 the board may assign members to consider appeals. If
38 8 a hearing is requested, it shall be open to the public
38 9 and shall be conducted in accordance with the rules of
38 10 practice and procedure adopted by the board. However,
38 11 any deliberation of a board member considering the
38 12 appeal in reaching a decision on any appeal shall be
38 13 confidential. The property assessment appeal board or
38 14 any member of the board may require the production of
38 15 any books, records, papers, or documents as evidence
38 16 in any matter pending before the board that may be
38 17 material, relevant, or necessary for the making of a
38 18 just decision. Any books, records, papers, or
38 19 documents produced as evidence shall become part of
38 20 the record of the appeal. Any testimony given
38 21 relating to the appeal shall be transcribed and made a
38 22 part of the record of the appeal.

38 23 3. a. The board member considering the appeal
38 24 shall determine anew all questions arising before the
38 25 local board of review which relate to the liability of
38 26 the property to assessment or the amount thereof. All
38 27 of the evidence shall be considered and there shall be
38 28 no presumption as to the correctness of the valuation
38 29 of assessment appealed from. The property assessment
38 30 appeal board shall make a decision in each appeal
38 31 filed with the board. If the appeal is considered by
38 32 less than a majority of the board, the determination
38 33 made by that member shall be forwarded to the full
38 34 board for approval, rejection, or modification. If
38 35 the initial determination is rejected by the board, it
38 36 shall be returned for reconsideration to the board
38 37 member making the initial determination. Any
38 38 deliberation of the board regarding an initial
38 39 determination shall be confidential.

38 40 b. The decision of the board shall be considered
38 41 the final agency action for purposes of further
38 42 appeal, except as otherwise provided in section
38 43 441.49. The decision shall be final unless appealed
38 44 to district court as provided in section 441.38. The
38 45 levy of taxes on any assessment appealed to the board
38 46 shall not be delayed by any proceeding before the
38 47 board, and if the assessment appealed from is reduced
38 48 by the decision of the board, any taxes levied upon
38 49 that portion of the assessment reduced shall be abated
38 50 or, if already paid, shall be refunded. If the
39 1 subject of an appeal is the application of an
39 2 equalization order, the property assessment appeal
39 3 board shall not order a reduction in assessment
39 4 greater than the amount that the assessment was
39 5 increased due to application of the equalization
39 6 order. Each party to the appeal shall be responsible
39 7 for the costs of the appeal incurred by that party.

39 8 Sec. _____. Section 441.38, Code 2005, is amended to
39 9 read as follows:

39 10 441.38 APPEAL TO DISTRICT COURT.

39 11 1. Appeals may be taken from the action of the
39 12 local board of review with reference to protests of
39 13 assessment, to the district court of the county in
39 14 which the board holds its sessions within twenty days
39 15 after its adjournment or May 31, whichever date is
39 16 later. Appeals may be taken from the action of the
39 17 property assessment appeal board to the district court
39 18 of the county where the property which is the subject
39 19 of the appeal is located within twenty days after the
39 20 letter of disposition of the appeal by the property
39 21 assessment appeal board is postmarked to the
39 22 appellant. No new grounds in addition to those set
39 23 out in the protest to the local board of review as
39 24 provided in section 441.37, or in addition to those
39 25 set out in the appeal to the property assessment
39 26 appeal board, if applicable, can be pleaded, but
39 27 additional evidence to sustain those grounds may be
39 28 introduced. The assessor shall have the same right to
39 29 appeal and in the same manner as an individual
39 30 taxpayer, public body or other public officer as
39 31 provided in section 441.42. Appeals shall be taken by
39 32 filing a written notice of appeal with the clerk of
39 33 district court. Filing of the written notice of
39 34 appeal shall preserve all rights of appeal of the
39 35 appellant.

39 36 2. Notice of appeal shall be served as an original
39 37 notice on the chairperson, presiding officer, or clerk

39 38 of the board of review, and on the secretary of the
39 39 property assessment appeal board, if applicable, after
39 40 the filing of notice under subsection 1 with the clerk
39 41 of district court.

39 42 Sec. _____. Section 441.39, Code 2005, is amended to
39 43 read as follows:

39 44 441.39 TRIAL ON APPEAL.

39 45 The If the appeal is from a decision of the local
39 46 board of review, the court shall hear the appeal in
39 47 equity and determine anew all questions arising before
39 48 the board which relate to the liability of the
39 49 property to assessment or the amount thereof. The
39 50 court shall consider all of the evidence and there
40 1 shall be no presumption as to the correctness of the
40 2 valuation of assessment appealed from. If the appeal
40 3 is from a decision of the property assessment appeal
40 4 board, the court's review shall be limited to the
40 5 correction of errors at law. Its decision shall be
40 6 certified by the clerk of the court to the county
40 7 auditor, and the assessor, who shall correct the
40 8 assessment books accordingly.

40 9 Sec. _____. Section 441.43, Code 2005, is amended to
40 10 read as follows:

40 11 441.43 POWER OF COURT.

40 12 Upon trial of any appeal from the action of the
40 13 board of review or of the property assessment appeal
40 14 board fixing the amount of assessment upon any
40 15 property concerning which complaint is made, the court
40 16 may increase, decrease, or affirm the amount of the
40 17 assessment appealed from.

40 18 Sec. _____. Section 441.49, unnumbered paragraph 5,
40 19 Code 2005, is amended to read as follows:

40 20 The local board of review shall reconvene in
40 21 special session from October 15 to November 15 for the
40 22 purpose of hearing the protests of affected property
40 23 owners or taxpayers within the jurisdiction of the
40 24 board whose valuation of property if adjusted pursuant
40 25 to the equalization order issued by the director of
40 26 revenue will result in a greater value than permitted
40 27 under section 441.21. The board of review shall
40 28 accept protests only during the first ten days
40 29 following the date the local board of review
40 30 reconvenes. The board of review shall limit its
40 31 review to only the timely filed protests. The board
40 32 of review may adjust all or a part of the percentage
40 33 increase ordered by the director of revenue by
40 34 adjusting the actual value of the property under
40 35 protest to one hundred percent of actual value. Any
40 36 adjustment so determined by the board of review shall
40 37 not exceed the percentage increase provided for in the
40 38 director's equalization order. The determination of
40 39 the board of review on filed protests is final,
40 40 subject to appeal to the property assessment appeal
40 41 board. A final decision by the local board of review,
40 42 or the property assessment appeal board, if the local
40 43 board's decision is appealed, is subject to review by

40 44 the director of revenue for the purpose of determining
40 45 whether the board's actions substantially altered the
40 46 equalization order. In making the review, the
40 47 director has all the powers provided in chapter 421,
40 48 and in exercising the powers the director is not
40 49 subject to chapter 17A. Not later than fifteen days
40 50 following the adjournment of the board, the board of
41 1 review shall submit to the director of revenue, on
41 2 forms prescribed by the director, a report of all
41 3 actions taken by the board of review during this
41 4 session.

41 5 Sec. _____. Section 445.60, Code 2005, is amended to
41 6 read as follows:

41 7 445.60 REFUNDING ERRONEOUS TAX.

41 8 The board of supervisors shall direct the county
41 9 treasurer to refund to the taxpayer any tax or portion
41 10 of a tax found to have been erroneously or illegally
41 11 paid, with all interest, fees, and costs actually
41 12 paid. A refund shall not be ordered or made unless a
41 13 claim for refund is presented to the board within two
41 14 years of the date the tax was due, or if appealed to
41 15 the board of review, the property assessment appeal
41 16 board, the state board of tax review, or district
41 17 court, within two years of the final decision.

41 18 Sec. _____. FUTURE REPEAL.

41 19 1. The sections of this division of this Act
41 20 amending sections 7E.6, 13.7, 428.4, 441.19, 441.35,
41 21 441.38, 441.39, 441.43, 441.49, and 445.60, and
41 22 enacting sections 421.1A and 441.37A, are repealed
41 23 effective July 1, 2013.
41 24 2. The portion of the section of this division of
41 25 this Act amending section 441.28 relating only to the
41 26 property assessment appeal board is repealed effective
41 27 July 1, 2013.>>
41 28 #6. Page 5, line 6, by striking the word <to> and
41 29 inserting the following: <property tax assessment,
41 30 to>.
41 31 #7. Page 5, line 7, by inserting after the word
41 32 <gasoline,> the following: <to issuance of revenue
41 33 bonds,>.
41 34 #8. By renumbering as necessary.
41 35
41 36
41 37
41 38 _____
41 38 HOFFMAN of Crawford
41 39 HF 868.514 81
41 40 tm/pj/4718